

CANDIDATE CONTROLLED COMMITTEES NEW REQUIREMENTS FOR REPORTING EXPENDITURES FOR GIFTS, MEALS, AND TRAVEL

The Political Reform Act¹ requires California state and local candidates and campaign committees to file periodic reports disclosing contributions received and expenditures made. Section 84211 requires expenditures of \$100 or more to be itemized on campaign reports, including a brief description of the consideration for which the payment was made. The Commission has created a group of codes for describing expenditures on Schedules E, F, and G of the Recipient Committee Campaign Statement (Form 460). The instructions page for Schedule E contains an explanation of the codes. Expenditures not accurately described by the existing codes must be explained in the "Description of Payment" column of Schedules E, F, and G.

Whether or not a code is used to explain an expenditure by a candidate controlled committee for a gift, meal, or travel, **all** itemized expenditures for gifts, meals, or travel must be further explained in the "Description of Payment" column of Schedules E, F, and G under new Regulation 18421.7.² (A copy of Regulation 18421.7 is available on the FPPC website at www.fppc.ca.gov.)

Additional Requirements for Committees Controlled by State and Local Candidates When Reporting Expenditures for Gifts, Meals, and Travel

First, it is important to note that under the Act, all expenditures made from a committee's campaign funds must be *reasonably related* to a political, legislative, or governmental purpose. An expenditure must be *directly related* to a political, legislative, or governmental purpose if it confers a substantial personal benefit³ on, or pays for the travel or accommodations of, the controlling candidate, elected officer, or an individual authorized to approve committee expenditures. An expenditure must also be directly related to a political, legislative, or governmental purpose if it is made for a personal gift.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² For purposes of electronic reporting, candidate controlled committees should utilize the "memo" field of the electronic Form 460 to provide the required description of expenditures for gifts, meals, and travel if the expenditures cannot be fully described within the character limitations of the "Description of Payment" column of Schedules E, F, and G.

³ See Sections 89510-89519. "Substantial personal benefit" means a payment that results in a direct personal benefit of \$200 or more on the candidate, elected officer, or any individual with the authority to approve the expenditure of campaign funds. Detailed information about the permissible uses of campaign funds can be found in the campaign disclosure manuals for state candidates (Manual 1) and local candidates (Manual 2), available on the FPPC website (www.fppc.ca.gov).

Under Regulation 18421.7, a candidate controlled committee reporting an expenditure for a gift, a meal, or travel on its campaign statement must briefly describe the political, legislative, or governmental purpose for the expenditure. In addition, the committee must include the following information:

- **Gifts** – When reporting an itemized expenditure for a gift, the committee must provide the date of the gift and a description of the gift. If the gift was made to an individual recipient, the name of the recipient must be included. If a gift was made to a group of recipients, the name of each recipient who received a benefit of \$50 or more is required. When the recipient of a gift with a value of \$50 or more is not known at the time the payment is required to be reported, the committee must report that the gift was for an “undetermined recipient.” Once the gift has been given to the recipient, the campaign statement must be amended within 45 calendar days to disclose the name of the recipient.

Examples:

Senator Wilson spends \$275 at Nordstrom to purchase sweaters as holiday gifts for three of her office staff. On Schedule E of her next campaign report (Form 460), she will itemize the \$275 payment to Nordstrom. In the Description of Payment column, the following would adequately describe the payment: “12/5/08 – Sweaters purchased as holiday gifts for office staff Mary Jensen (\$100), Linda Davis (\$100), and Richard Bailey (\$75).”

Richard Johnson, a candidate for County Board of Supervisors, purchased 50 watches for \$750 (\$15 each) from Target. He plans to give the watches to the first 50 individuals who purchase a ticket to his upcoming fundraiser. On Schedule E of his next campaign report, he will itemize the payment to Target. In the Description of Payment column, the following description could be used to describe the gifts: “9/12/08 – Watches purchased as gifts for campaign donors. No individual will receive a gift worth \$50 or more.”

- **Meals** – When reporting an itemized expenditure for a meal (other than a meal reported as an itemized expenditure for travel, as discussed below), the committee must also provide the date of the meal, the number of individuals who were present at the meal, and whether the candidate, a member of his or her household, or an individual with authority to approve expenditures of campaign funds was present at the meal. It is not necessary to include the names of individual attendees on the report. However, the names of the attendees must be maintained in the committee’s records. (See “Additional Recordkeeping Required” below.)

Examples:

Senator Brendan Myers had dinner with his campaign manager, who also has the authority to approve expenditures of campaign funds, to discuss his upcoming reelection campaign. The Senator put the dinner on a campaign credit card, which had not been paid by the end of the reporting period for the next campaign statement. On Schedule F, he will itemize the accrued expense naming both the credit card company and the restaurant. In the Description of Payment column, the following description would be sufficient: "9/1/08 – Dinner meeting regarding reelection campaign attended by campaign manager and candidate."

Robyn Forrester, a candidate for city council, paid a caterer to provide lunch for committee volunteers the day after her election. She stopped by the event to personally thank them, but did not eat lunch. On Schedule E, she will itemize the payment to the caterer. In the Description of Payment column, the following description could be used: "11/5/08 – Catered lunch for 20 campaign volunteers." The names of the volunteers who attended the lunch must be kept in the committee's records.

- **Travel Payments** – When reporting an itemized expenditure for travel, including lodging and meals, the committee must also provide the date or dates of the travel, the destination, and the goods or services purchased. In addition, the description must include the number of individuals for whom the payment was made and whether the trip included the candidate, a member of his or her household, or an individual with the authority to approve expenditures of campaign funds. The names of individuals who traveled are not required to be disclosed on the report. However, the names of the travelers must be maintained in the committee's records. (See "Additional Recordkeeping Required" below.)

Examples:

Mayor Wanda Nelson used campaign funds to travel to Austin, Texas to attend a three-day conference of federal, state, and local officials relating to emergency preparedness. Her registered domestic partner accompanied her. When reporting this payment she will itemize her expenditure to the hotel. In the Description of Payment column, she could use the following description: "10/1/08 – 10/3/08 – Accommodations for candidate and a member of candidate's household in Austin, Texas to attend emergency preparedness conference for government officials." Her domestic partner's name must be included in the committee's records.

Up for reelection, Senator Larson used campaign funds to pay for a flight from Sacramento to San Diego for a campaign event. When reporting the payment to the airline on Schedule E, he will itemize the expenditure to the airline. In the

Description of Payment column the following would sufficiently describe the expenditure: "8/1/08 and 8/3/08 – Round trip airfare to San Diego for candidate to attend campaign event."

Additional Recordkeeping for Committees Controlled by State and Local Candidates When Making Expenditures for Gifts, Meals, and Travel

In addition to the recordkeeping requirements applicable to all committees, a candidate controlled committee must keep a dated memorandum or some other form of dated written record containing all of the required information described above. In addition, although names are not required to be disclosed on the campaign statement for meals and travel, the name of an individual must be maintained in the committee's records if campaign funds are used to purchase a meal or travel for the individual.

QUESTIONS AND ANSWERS

1. When do the new reporting and recordkeeping requirements go into effect?

A. July 1, 2008.

2. Do these new requirements apply to the semiannual statement due July 31, 2008, covering the period through June 30, 2008?

A. No. The requirements apply only to expenditures made on or after July 1, 2008.

3. Do the new reporting and recordkeeping rules apply to committees other than committees controlled by a candidate or officeholder?

A. No.

4. Do the new rules apply to ballot measure committees controlled by a candidate or officeholder?

A. Yes. The new rules apply to any committee that is controlled by a candidate or officeholder, including election committees, officeholder committees, legal defense funds, recall committees, and ballot measure committees.

5. Who is considered a member of a candidate or officeholder's household?

A. The term "household" includes the candidate or elected officeholder and his/her spouse or registered domestic partner, dependent children, and parents who reside with the candidate or elected officeholder.

6. Is it permissible to purchase gifts from campaign funds?

A. Campaign funds may be used to purchase a gift only if the payment is *directly related* to a political, legislative, or governmental purpose. Detailed information on the permissible uses of campaign funds can be found in the Commission's campaign manuals for state candidates and officeholders (Manual 1) and local candidates and officeholders (Manual 2).

7. Do the new reporting and recordkeeping requirements apply to an expenditure for meals provided during the course of a fundraising event at which a per plate contribution is required?

A. Yes. The new rules apply to meals provided at a fundraising event even if a per plate contribution is required. Note that the name of any attendee receiving a meal at the event must be maintained in the committee's records.

8. Do the new reporting and recordkeeping requirements apply to an expenditure for complimentary appetizers provided at a fundraising event at which a contribution is required to attend?

A. No. If attendees are served only complimentary appetizers, the expenditure for the appetizers is not an expenditure for a meal. Moreover, the expenditure for appetizers served at an event at which a contribution is required to attend is not an expenditure for a gift. Accordingly, the committee may report the expenditure for the appetizers as an expenditure for a fundraising event (Code FND) with no further explanation.

9. When reporting multiple expenditures to different vendors for a single gift, meal, or trip during the same reporting period, is it necessary to provide a full explanation for each expenditure?

A. If the detailed description provided for an expenditure fully explains a subsequent expenditure for the same gift, meal, or trip, a full explanation of the subsequent expenditure is not necessary so long as the description provided for the subsequent expenditure clearly identifies the previous expenditure.